

PATENT
Serial No. 10/540,685
Amendment in Reply to Office Action mailed on February 28, 2006

REMARKS

The following remarks are being filed in response to the Office Action mailed February 28, 2006, which has been reviewed and carefully considered.

By means of the present amendment, claims 1-8 have been amended. Claims 1-8 remain pending in this application, with claims 1 and 7-8 being the only independent claims.

Reconsideration and allowance of the application in view of the following remarks are respectfully requested.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

In the Office Action, claims 4-6 are objected as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Further, claim 7 is rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite. In response, claims 4-6 have been amended to remove the informality noted by the Examiner. It is respectfully submitted that the objection of claims 4-6 and the rejection of claim 7 have been

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overcome and an indication as such is respectfully requested. Further, claims 1-8 have been amended for better conformance to U.S. practice, such as deleting reference designations typically used in European practice that are known to not limit the scope of the claims, and beginning the dependent claims with 'The' instead of 'A'. Claims 1-8 were not amended in order to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents.

In the Office Action, claims 1-2 and 8 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,844,960 (Kowarz) in view of U.S. Patent No. 6,965,467 (Yamamoto). Further, claim 3 rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kowarz and Yamamoto in view of U.S. Patent No. 6,859,233 (Sasama). It is respectfully submitted that claims 14-16 are patentable over Kowarz, Yamamoto and Sasama for at least the following reasons.

Kowarz is directed to a mechanical device with continuously variable displacement. As shown in FIG 8b and recited on column 6, lines 1-5, an elongated ribbon element 23b deforms (actuated state) due to an attractive electrostatic force produced by applying a

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voltage difference between bottom and top conductive layers 12, 22. FIG 8a shows the elongated ribbon element 23b in the unactuated state. As clearly seen from FIG 8b, the deformation of the elongated ribbon element 23b is substantially parallel to the optical axis of the light beams 30, 32, or perpendicular to the plane of the elongated ribbon element 23b.

In stark contrast, the present invention as recited in amended independent claim 1, and similarly recited in amended independent claims 7-8, amongst other patentable elements, requires (illustrative emphasis provided):

wherein said deformable optical element is configured to deform substantially along at least one of a direction radial to an optical axis of said deformable optical element and a plane parallel to said polymer film.

These features are nowhere taught or suggested in Kowarz. Rather, Kowarz teaches deformation in a direction parallel to the optical axis or perpendicular to the plane of the elongated ribbon element 23b. Kowarz is diametrically opposite the present invention. Thus, Kowarz teaches away from the present invention as recited in independent claims 1 and 7-8, which require deformation radial to the optical axis or a parallel to the polymer film.

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Yamamoto and Sasama are cited to allegedly show other features and do not remedy the deficiencies in

Accordingly, it is respectfully submitted that independent claims 1 and 7-8 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-6 should also be allowed at least based on their dependence from independent claim 1.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

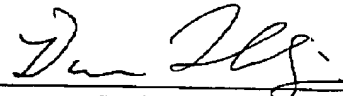
It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicant's representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related

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to any fees paid in connection with the accompanying amendment to
Deposit Account No. 50-3649.

In view of the above, it is respectfully submitted that the
present application is in condition for allowance, and a Notice of
Allowance is earnestly solicited.

Respectfully submitted,

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Enclosure: New Abstract

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